

Regular Session, 2010

HOUSE BILL NO. 845

BY REPRESENTATIVE NOWLIN

TAX/SALES-USE, LOCAL: Provides relative to requirements for private contracts with agencies or firms for the collection of local sales and use tax

## 1 AN ACT

2 To amend and reenact R.S. 47:337.26(C) and (D)(1)(introductory paragraph) and (c) and to  
3 enact R.S. 47:337.26(D)(3), (F), and (G), relative to collection of local sales and use  
4 tax; to provide for requirements governing certain activities of private contractors;  
5 to prohibit the sharing of certain taxpayer information; to provide with respect to  
6 contracts; to provide for oversight by the legislative auditor; and to provide for  
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:337.26(C) and (D)(1)(introductory paragraph) and (c) are hereby  
10 amended and reenacted and R.S. 47:337.26(D)(3), (F), and (G) are hereby enacted to read  
11 as follows:

12 §337.26. Contracts for ~~purposes~~ purposes relating to collection of sales and use  
13 taxes

14 \* \* \*

15 C.(1) Any private agency or auditing firm hired for the purposes of this  
16 Section and any employee, contractor, or other agent of such private agency or  
17 auditing firm shall be governed by the provisions of R.S. 47:1508 et seq.

18 (2)(a) Audit leads provided by the private agency or auditing firm shall be  
19 subject to the taxpayer confidentiality requirements of R.S. 47:1508 et seq. Once  
20 confidential information has been disclosed by the taxpayer to the private agency or



1 firm is contingent upon the actual collection of tax or in any other way dependent on  
2 the outcome of the audit.

3 \* \* \*

4 (3)(a) Upon completion of the audit or examination, all original information  
5 obtained by the private agency or auditing firm from the taxpayer in connection with  
6 the audit or examination, whether written or in electronic form, shall be returned to  
7 the taxpayer, and the private agency or auditing firm shall not retain any copies of  
8 such information. All taxpayer related information derived, compiled, or generated  
9 by the private agency or auditing firm in any form whatsoever, including audit  
10 schedules, working papers, and copies of information received from the taxpayer,  
11 shall be delivered to the tax collector, except to the extent such information may be  
12 retained by certified public accountants in accordance with the Louisiana Public  
13 Accountancy Act.

14 (b) No provision of this Section shall prohibit a private agency or auditing  
15 firm from retaining books and records of a taxpayer until the termination of any legal  
16 proceedings related to the audit or examination.

17 \* \* \*

18 F. Each contract entered into pursuant to this Section may be subject to  
19 review and oversight by the legislative auditor pursuant to R.S. 33:1427 and  
20 contracts entered into after July 1, 2010, shall contain a statement by the local  
21 collector and private agency or auditing firm certifying that the terms and conditions  
22 of the contract are in compliance with the requirements of the provisions of this  
23 Section. Any contract that does not satisfy the requirements of this Section may be  
24 declared null and void by a court of competent jurisdiction.

25 G. The private agency or auditing firm hired for the purposes of this Section,  
26 including any employee, contractor, or other agent of such private agency or auditing  
27 firm conducting such examination or audit, shall be subject to the Code of  
28 Governmental Ethics as set forth in R.S. 42:1101 et seq.

1           Section 2. The provisions of this Act shall apply to audits or examinations conducted  
2 after the effective date of this Act.

3           Section 3. This Act shall become effective upon signature by the governor or, if not  
4 signed by the governor, upon expiration of the time for bills to become law without signature  
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
7 effective on the day following such approval.

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### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Nowlin

HB No. 845

**Abstract:** Requirements for private contracts for audit activities related to the collection of local sales and use tax, including taxpayer privacy protection, limitations on contractor activities, and specific provisions for contracts.

Present law authorizes any taxing authority to contract for the examination or investigation of businesses, tangible personal property, books, etc., of any taxpayer for purposes of enforcement and collection of any tax imposed by the taxing authority.

Present law requires the taxing authority to notify a taxpayer of an impending audit and provide information relating to the purpose of the audit, taxpayer rights, and identification of the entity conducting the audit.

Proposed law retains present law and adds additional requirements for contracts with private agencies or audit firms which include: limitations on the sharing of audit leads with other tax collectors, limitations related to the confidentiality of taxpayer records, credentials required for lead auditors, and disclosure of how the private agency or audit firm will be paid for its services.

Proposed law provides that contracts with private agencies or audit firms may be subject to review and oversight by the legislative auditor. Further, requires contracts entered into after July 1, 2010, to contain a certification by the local collector and contractor that the terms and conditions of the contract are in compliance with the requirements of the provisions of proposed law.

Proposed law provides for disposition of taxpayer records after the completion of the audit, and specifies that a private agency or auditing firm may retain taxpayer books and records until the termination of any legal proceedings related to an audit or examination.

Proposed law shall be applicable to audits commenced after the effective date of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:337.26(C) and (D)(1)(intro. para.) and (c); Adds R.S. 337.26(D)(3), (F), and (G))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Added provision whereby a taxpayer may waive confidentiality requirements related to his records.
2. Limited the specific educational requirements to lead auditors only.
3. Added provision authorizing a private agency or auditing firm to retain taxpayer records until the termination of any legal proceedings related to an audit or examination.
4. Regarding the requirement of proposed law whereby the contracts must be in conformity with proposed law, added specification that such requirement applies to contracts entered into after July 1, 2010.